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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

In re M.L. et al., Persons Coming Under the
Juvenile Court Law.

KINGS COUNTY HUMAN SERVICES
AGENCY,

Plaintiff and Respondent,

v.

E.L.,

Defendant and Appellant.

F078892

(Super. Ct. Nos. 17JD0041,
17JD0042, 17JD0043, 17JD0044)

OPINION

THE COURT*

APPEAL from orders of the Superior Court of Kings County. Jennifer Lee
Giuliani, Judge.

Donna Balderston Kaiser, under appointment by the Court of Appeal, for
Defendant and Appellant.

David A. Prentice, County Counsel, and Risé A. Donlon, Deputy County Counsel,
for Plaintiff and Respondent.

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* Before Detjen, Acting P.J., Franson, J. and Snauffer, J.

E.L. (mother) appeals from the juvenile court's orders under Welfare and Institutions Code section 366.26¹ terminating her parental rights as to four of her children and ordering continued placement of her fifth child. Mother's sole contention on appeal is that the Kings County Human Services Agency (the agency) failed to adequately comply with the notice requirements of the Indian Child Welfare Act (ICWA; 25 U.S.C. § 1901 et seq.). The agency concedes the error and agrees with mother, as do we, that remand is required for compliance.

DISCUSSION

In state court proceedings seeking foster care placement or termination of parental rights “where the court knows or has reason to know that an Indian child is involved,” ICWA requires notice to the parent or Indian custodian and the Indian child's tribe. (25 U.S.C. § 1912(a).) Similarly, California law requires notice to the parent, legal guardian or Indian custodian and the Indian child's tribe, if the agency or the court “knows or has reason to know that an Indian child is involved” in the proceedings. (§ 224.2, subd. (a) [former § 224.3, subd. (d)]; see *In re Breanna S.* (2017) 8 Cal.App.5th 636, 649–650; *In re Michael V.* (2016) 3 Cal.App.5th 225, 232; Cal. Rules of Court, rule 5.481(b)(1) [notice is required “[i]f it is known or there is reason to know that an Indian child is involved in a proceeding listed in rule 5.480,” which includes all dependency cases filed under section 300].) Notice to Indian tribes is central to effectuating ICWA's purpose because it enables a tribe to determine whether the child involved in a dependency proceeding is an Indian child and, if so, whether to intervene in or exercise jurisdiction over the matter. (*In re Isaiah W.* (2016) 1 Cal.5th 1, 8.)

Here, the parties agree that not all the tribes identified by the parents were provided notice. Specifically, they agree that the Chukchansi and Shoshone tribes,

¹ All statutory references are to the Welfare and Institutions Code unless otherwise noted.

identified by mother, were not sent ICWA notices. Thus, the agency violated the notice requirements of ICWA, and the juvenile court failed to ensure compliance with those requirements (see *In re Isaiah W.*, *supra*, 1 Cal.5th at pp. 6–15). Accordingly, we will conditionally reverse.

DISPOSITION

The juvenile court's section 366.26 orders of January 23, 2019, are conditionally reversed. The matter is remanded with directions to conduct further proceedings necessary to establish full compliance with the ICWA notice requirements. The juvenile court shall then determine whether the ICWA notice requirements have been satisfied and whether the children are Indian children. If the court finds they are Indian children, it shall conduct a new section 366.26 hearing, as well as all further proceedings, in compliance with ICWA and related California law. If the court does not so find, the court shall reinstate its section 366.26 orders.